



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,303	03/14/2001	Yoshihito Ishibashi	09792909-4859	3750

26263 7590 01/13/2006

SONNENSCHN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/808,303

Applicant(s)

ISHIBASHI, YOSHIHITO

Examiner

Marissa Thein

Art Unit

3627

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

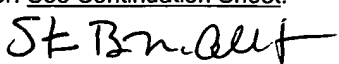
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.


STEVE B. McALLISTER
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The arguments are not persuasive. For example, Applicant remarks that "Gruse does not disclose a settlement log for the use of the content is issued from a content providing one of the plurality of user devices to one of a service provider and a clearing center and that settlement processing for the identical content is performed based on the settlement log under the management of said one of a service provider and a clearing center".

The Examiner notes that Gruse does disclose "a settlement log for the use of the content is issued from a content providing one of the plurality of user devices to one of a service provider and a clearing center and that settlement processing for the identical content is performed based on the settlement log under the management of said one of a service provider and a clearing center". Gruse discloses a logging site which receives play information which includes the number of times that the content data has been played by the associated content player (abstract). Information is transmitted to a logging site whenever the content data is played by the content player or copied from the content player to an external medium so that usage of the licensed content data can be tracked (Abstract). The Clearinghouse (clearing center) maintains an audit logs of information for each operation that is performed during content purchase transactions and report request transaction (col. 47, lines 49-52). Interfaces exist for communication with the Clearinghouse(s), transmission of purchase requests, and or special services such as pay per listen or cases where each access to the content is accounted for (col. 88, lines 42-46). The tracking of each use of content by the player application can be transmitted to one or more logging sites such as the Clearing House(s) or Content Provider(s) or Electronic digital Content Store(s) or any site designed coupled to Transmission Infrastructure (col. 88, lines 51-56). For example, the use of the content can be uploaded to the logging site during every use of the content, such as, when duplicating or copying the content stored at the End User Device(s), onto an external device such as DVD, digital tape, or readable/writable recordable media, the use is updated to the logging site (col. 88, line 67 - col. 89, line 6). This ensures the Content Provider(s) can accurately track the usage of their Content during their playing, duplicating or other actions upon the content (col. 89, lines 9-11).

Such logging site which receives play information which includes the number of times that the content data has been played by the associated content player; the tracking of each use of content by the player application can be transmitted to one or more logging sites such as the Clearing House(s) or Content Provider(s) (service provider) or Electronic digital Content Store(s) or any site designed coupled to Transmission Infrastructure; and the use of the content can be uploaded to the logging site during every use of the content, such as, when duplicating or copying the content stored at the End User Device(s) (user device), onto an external device are considered a settlement log for the use of the content is issued from a content providing one of the plurality of user devices to one of a service provider and a clearing center every time an identical content is distributed.

Continuation of 13. Other: The proposed amendment to claim 1 would place the claims in better form for appeal..